

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN DICK HAINES**, on January 23, 2001 at 8:30 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Dick Haines, Chairman (R)
Sen. William Crismore, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Linda Nelson (D)
Sen. Bill Tash (R)
Rep. Joe Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Becky Beckert-Graham, OBPP
Gary Hamel, Legislative Branch
Amber Sauer, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Fish Wildlife and Parks,
Parks Division
Executive Action: Fish Wildlife and Parks,
Parks Division

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DEPARTMENT OF FISH WILDLIFE AND PARKS

PARKS DIVISION (continued)

Mr. Gary Hamel, LFD Representative, continued the discussion on the Parks Division of Fish Wildlife and Parks (FWP) with DP-606 Snowmobile Equipment. This request is for a biennial

appropriation to purchase snowmobile-trail grooming equipment. Funds for this program come from a rebate of fees paid by users on snowmobile fuel. He had no issues or comments. **Ms. Becky Beckert-Graham, OBPP**, requested that it be a biennial appropriation. **Mr. Doug Monger, Administrator, Park Division, FWP**, stated they are planning to purchase snowmobile-trail grooming equipment to give to local snowmobile clubs to do their grooming. He explained the amounts requested and noted the request for the biennium is a reduction of \$37,000. The committee discussed repairs and maintenance, replacement schedules, enhancing recreation and safety, and payment of road taxes.

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Motion/Vote: REP. TROPILA moved that **DP-606 SNOWMOBILE EQUIPMENT BE ADOPTED. Motion carried unanimously.**

Mr. Hamel explained DP-607 which is a request to utilize community service programs to assist with park maintenance projects. Montana State Parks uses modified level FTE to supplement current staff members who are supervising Montana Conservation Corps, volunteer groups, and Aspen Youth Alternative crews. These groups contribute many hours for maintenance in the parks but need supervision. **Mr. Monger** stated this would restore the base budget and explained it did not roll forward for this biennium as it should have. These are state special funds arrived from camping fees and day-use fees.

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Motion/Vote: SEN. NELSON moved that **DP-607 COMMUNITY SERVICE BE ADOPTED. Motion carried unanimously.**

Mr. Hamel continued with DP-610 which is to reduce off-highway vehicle (OHV) grants and operations. Local clubs, communities, counties and federal agencies use these monies to improve OHV use and user behavior. **Mr. Monger** stated this is funded with highway fuel tax rebates and decal fees. They are reducing the base in HB 2 and increasing in similarly in HB 5.

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Motion/Vote: SEN. NELSON moved that **DP-610 REDUCE OHV GRANTS AND OPERATIONS BE ADOPTED. Motion carried unanimously.**

Mr. Hamel stated that DP-611 needed no executive action. It was for informational purposes only. It is a statutory appropriation

to fund park maintenance programs statewide. He moved on to DP-612 which is the Alternative Pay Plan as it was discussed in the previous meeting and action had been taken at that time.

The next DP discussed was DP-614 Restore Base Operations which is a request to restore \$60,000 in the base operations to compensate for funding that was not spent in the base year of fiscal 2000.

Mr. Hamel's issue is that the department had not identified specific circumstances that prevented expending the funds in the base year. He also raised the issue of "redirection" of funds for the alternative pay plan which requires reductions in the base operations. **Mr. Monger** stated it is mandated through statute that they cannot overspend their budgets. This requires an ending fund balance to avoid overspending. He explained the funding sources and the limitations. The 1.6% of the overall budget requested for restoring the base is less than the 2% ordinarily targeted. This amount is to avoid overspending but to continue to meet basic operations expenses.

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Motion/Vote: SEN. CRISMORE moved that DP-614 RESTORE BASE OPERATIONS IN THE AMOUNT OF \$60,000 EACH FISCAL YEAR BE ADOPTED. Motion carried unanimously.

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Mr. Hamel continued with DP-615 Snowmobile Grants and Operations Adjustment which includes a request to transfer authority between the operations and the equipment categories. The request is actually to correct a mistake made in year-end procedures. Ms. Beckert-Graham stated the OBPP requests this be passed for "clean-up".

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Motion/Vote: REP. TROPILA moved that DP-615 SNOWMOBILE GRANTS AND OPERATIONS ADJUSTMENT BE ADOPTED. Motion carried unanimously.

Mr. Hamel stated DP-616 was part of the proprietary fund increase in rates which was approved earlier by the committee. No further action was necessary at this time. DP-617 had also been acted on earlier. **Mr. Hamel** moved to the new proposals. DP-601 is Park Maintenance and Operations to hire 2.79 FTE for park maintenance and operations improvement. **Mr. Monger** stated the request is being funded by parks earned revenue which has steadily been increasing. The use of the parks is also increasing which causes the need for the additional FTE. He stated he is uncomfortable

having interns supervise student volunteers in the state parks. School student group visitations are also increasing. Five of the state parks are on the Lewis & Clark Trail and with the bicentennial celebration coming the visitor projections are high. The committee discussed the additional staff needs further, candidates for the positions, workers' compensation coverage, industrial accident, and the funds available to pay for the DP.

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Motion/Vote: SEN. TASH moved that DP-601 NEW PROPOSAL FOR PARK MAINTENANCE AND OPERATIONS BE ADOPTED. Motion carried unanimously.

Mr. Hamel covered DP-602 Restore Motorboat Maintenance which is to restore federal fishing access site maintenance and motorboat authority to the previously authorized level. He suggested the appropriation could be restricted and one-time-only if it is to continue to be used for emergency purposes. Ms. Beckert-Graham agreed with the restricted but not the one-time-only. Mr. Monger stated the last session made this appropriation a one-time-only due to the style of repairs made with the funding source. He would like to see it not one-time-only but had no issue with restricted. He gave examples of how the funds are used.

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Motion/Vote: REP. TROPILA moved that DP-602 RESTORE MOTORBOAT MAINTENANCE RESTRICTED BE ADOPTED. Motion carried unanimously.

The next DP was DP-603 Fishing Access Site Maintenance which was requesting two FTE from the General License Account to meet increasing maintenance demands on fishing access sites. Mr. Hamel and Ms. Beckert-Graham both agreed restricted funding would be appropriate. Mr. Monger further explained the DP. He stated the funds are already restricted by federal mandate due to using licence fees for the FTE.

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Mr. Monger continued the 2 FTE's would be spread over 9 or 10 positions since some people work as little as 200 hours a year for the Department. There was discussion on the supervision of these employees, the number of sites that would benefit from the additional FTE, and the fishing license funds.

Motion/Vote: SEN. NELSON moved that DP-603 FISHING ACCESS SITE MAINTENANCE BE ADOPTED. Motion carried unanimously.

Mr. Monger gave further information about DP-609 which had been acted on previously. Some of the funding in that DP are federal grants already received.

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Mr. Hamel stated the committee needed to take action on language for HB 2.

Motion/Vote: REP. TROPILA moved that LANGUAGE RECOMMENDATIONS AS FOLLOWS BE ADOPTED. Motion carried unanimously.

"ITEM 6A LEGISLATIVE CONTRACT AUTHORITY (LCA) IS SUBJECT TO ALL LCA PROVISIONS STATED IN THE AGENCY'S LANGUAGE. LCA IS RESTRICTED AND A ONE-TIME-ONLY ITEM IN HB 2 AND MUST BE REQUESTED AS A NEW PROPOSAL TO BE CONTINUED INTO THE 2003 BIENNIUM. LCA APPLIES ONLY TO FEDERAL FUNDS.

"ITEM 6C IS A RESTRICTED APPROPRIATION FOR MOTORBOAT MAINTENANCE."

"ITEM 6D INCLUDES A BIENNIAL APPROPRIATION OF \$298,000 FOR SNOWMOBILE EQUIPMENT."

Mr. Monger distributed complimentary videos about the department to be shared by committee members with their communities.

CHAIRMAN HAINES closed the hearing on the Parks Division.

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Opponent's Testimony

Former **Representative Bob Raney, Livingston**, asked to speak to the committee. He stated he has followed FWP Parks Division for ten years and he would like to speak regarding several issues. He has learned the importance of this committee's work. He felt the FWP Commission does not look into the budget requests from the Department very thoroughly. OBPP does not make any policy decisions but rather looks at the accounting and restricting requests, etc. The committee is the first level for policy decisions to be reviewed. **Mr. Raney** stated the problem lies in the Department not doing what it says it will do from biennium to biennium. He gave several examples of funds appropriated for one purpose being used for another.

REP. RANEY addressed the issue of primitive parks which are 15 parks that were designated in 1993 by the Legislature as free for all Montana citizens. Because the Parks Division stated funds would be necessary for maintenance, **REP. RANEY** drafted a bill to allocate 6.5% of the bed tax to the maintenance of all 41 state parks but not Fishing Access Sites. He questioned how the funds are monitored and if the Parks Division is held accountable for proper use of the funds. He felt the questions should be asked of the Parks Division.

His largest concern is the Chief Plenty Coups State Park. He distributed copies of the statutes and a letter stating the specific concerns.

EXHIBIT(jnh18a01) and **EXHIBIT(jnh18a02)**

REP. RANEY continued that maintenance was deferred on the park for several years. In 1999 he carried a bill mandating the park be renovated and rehabilitated and appropriated \$500,000 to do the work. Of that amount, Parks Division only spent \$59,000 and now with the process in this legislature the remaining \$441,000 is being reverted. Since the law was ignored, a group of concerned citizens, the Crow Tribe, and the Friends of Plenty Coups decided to take the Parks Division to court.

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REP. RANEY continued with further information and statistics on work done or not done and the current condition of the Park. He stated the museum does not meet museum standards, the Chief's gravesite needs work, and the water is tainted. He maintained the Parks Division has the money to do the work but is not following through with it. He considers the court action, if it goes forward, is on behalf of the legislature.

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CHAIRMAN HAINES asked **REP. RANEY** to explain the legislation in more detail. He stated if the current actions of the committee stand to revert the funds, the Parks Division will no longer be obligated after June 30 as the appropriations statute will run out. However, the statute will remain on the books as Chief Plenty Coups Park being the number one priority for preservation and funding. He is listening to presentations to see if the Division presents funding allocations in HB 5 for the Park. He cited figures of funding spent at other state parks on capital improvements and maintenance. He is waiting to see solutions to this situation before going forward with the court action.

REP. RANEY also addressed the low income passport. He suggested more accountability be required from FWP for the millions of dollars moved through the agency.

CHAIRMAN HAINES asked **REP. RANEY** to give the committee his remarks in writing.

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Ms. Becky Beckert-Graham explained the OBPP process in preparing budgets for HB 2. She stated OBPP, the LFD, and the Governor all have their own policies and review methods, but the requests are reviewed.

Mr. Jeff Hagener, Director, Fish Wildlife and Parks responded that they have the information **REP. RANEY** gave the committee and they are preparing a response together with **Mr. Rich Furber, Site Manager**, and **Mr. Monger**. They intend to arrange a meeting in the near future with **REP. RANEY** and the Friends of Chief Plenty Coups group to address any issues. **Mr. Hagener** stated this issue points out the question of how much detail is necessary in reporting to the legislators to enable them to do their job.

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Mr. Monger clarified that the Parks Division does have legislative oversight and the audit will show that. There have also been two audits on the expenditures of bed tax funds. He addressed several other statements made by **REP. RANEY** that he felt were misrepresented. He specifically addressed the improvements made at the Black Sandy Park north of Helena.

He distributed a list of capital improvements made at Chief Plenty Coups State park.

EXHIBIT(jnh18a03)

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There were questions from the committee regarding the \$500,000 being spent or not spent, a management plan in place or not, projected expenditures for the next biennium in HB 5, and the relationships with the local people involved with the Park. **SEN. CRISMORE** asked **REP. RANEY** further questions on the requirement to spend \$500,000 if projects were bid and the bids came in lower. **REP. RANEY** stated he did not expect to see funds spent recklessly; however, the Parks Division numbers support at least another \$1 million could be spent to bring the Park up to

standards. He also posed the question that if the current relationship between the Parks Division and the Crow Tribe is excellent, why would the Crow be ready to sue. **SEN. NELSON** stated serious charges have been made and she would like to see the information in writing with a response from the agency in writing before they proceed.

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CHAIRMAN HAINES agreed. He asked for both parties to put their concerns and responses in writing and the committee would seriously examine the issue to gain an understanding of the situation. He stressed not getting emotions and personalities involved. He stated he would then meet with the parties involved and formulate a report to be presented to the committee.

{Tape : 3; Side : A; Approx. Time Counter : 35}

FISHERIES DIVISION

Mr. Larry Peterman, Administrator, Fisheries Division, distributed information for the committee and gave an overview of the agency.

EXHIBIT (jnh18a04)

He stated the Fisheries mission and the key elements of the Fisheries Program which is a separate program within the Division. The key elements of the Fisheries Program are habitat protection and enhancement, fisheries management, fishing access and aquatic education. **Mr. Peterman** covered each one of those elements individually and in more detail. In the Fisheries Management the emphasis is placed on wild fish in the streams and rivers with hatchery fish being placed in the lakes and reservoirs. The native fish management includes species placed on the endangered species list.

Mr. Peterman stated in the last session a warm water hatchery at Fort Peck had been discussed at length. That hatchery has been federally approved with the entire hatchery being funded by the federal government. They are discussing the operations cost of the hatchery. The Corp of Engineers is the federal agency involved and designing the hatchery. It would be run by FWP.

He stated the fishing access sites are very primitive providing parking space and a possible latrine. It is a cooperative program with the Parks Division.

Mr. Peterman went over the funding sources with the proposed increase from 108 FTE's to 112.23 FTE's. There is revenue generated from the paddlefish roe which Glendive harvests and sells. **CHAIRMAN HAINES** asked if the paddlefish was to be put on the endangered species list. **Mr. Peterman** stated it had been petitioned once but not enough information was available to place it on the list. Since that time, FWP has gathered much more information in order to be ready if it is petitioned again. The FWP currently works in cooperation with North Dakota in protecting the paddlefish populations. They are hoping to make an arrangement that the federal government will build the warm water hatchery at Fort Peck and also pay the state to operate it. He added there are no general funds in the Fisheries Division.

Mr. Peterman stated the results in the Fisheries Division for 1999 are 390,991 anglers, with 3.2 million angler days and an estimated \$191 million spent by anglers not including license costs. He listed several accomplishments of the Division.

Mr. Peterman gave a report on the whirling disease research accomplishments. In closing, he stated the current major issues for the Fisheries Division are whirling disease, native species/ESA, crowding/recreation conflict, and access.

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CHAIRMAN HAINES asked about a block management type access to stream access. **Mr. Peterman** stated there will be some pilot programs in HB 292 which is similar to a reference made by Governor Martz and will help in private landowner assistance for fishing access. It will need to be addressed this session.

REP. TROPILA asked about the overuse of the Missouri River in the drought. **Mr. Peterman** will seek clarification about license fees for outfitters on the river. **REP. TROPILA** was especially interested in out-of-state outfitters needing Montana licenses to be on our rivers.

{Tape : 3; Side : B; Approx. Time Counter : 50}

EXECUTIVE ACTION ON DEPARTMENT OF FISH WILDLIFE AND PARKS
FISHERIES DIVISION

The committee took up the executive action and decision packages for the Fisheries Division. **Mr. Hamel** started with DP-304 Equipment Replacement which is to replace fisheries equipment and hatchery trucks. He pointed out the requested funds appear to

replace base adjustment redirections to fund the alternative pay plan.

Mr. Peterman stated this is to restore a portion of the division's necessary large equipment and equipment for the field biologists to carry out their functions.

EXHIBIT(jnh18a05)

REP. TROPILA asked for further clarification on the alternative pay plan redirection of funds. **Mr. Peterman** stated this DP is in the large equipment area and the reduction for the alternative pay plan is coming out of small equipment in the base budget.

Mr. Hamel added in the alternative pay plan redirection, there is an appearance of backfilling by reducing equipment and hatchery needs in one area and replacing the amount through another DP in a present law adjustment. There was further discussion on this issue. **CHAIRMAN HAINES** asked the Division to specifically point out the amounts in areas that are genuine reductions as they go along.

{Tape : 3; Side : B; Approx. Time Counter : 220}

Motion/Vote: SEN. NELSON moved that DP-304 EQUIPMENT REPLACEMENT BE ADOPTED. Motion carried unanimously.

Mr. Hamel moved on to DP-305 Angler Survey Cyclical Adjustments which requests a reduction of \$30,000 in support of creating different budgets for survey mailings. **Mr. Peterman** explained the DP further per exhibit 5.

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Motion/Vote: SEN. CRISMORE moved that DP-305 ANGLER SURVEY CYCLICAL ADJUSTMENTS BE ADOPTED. Motion carried unanimously.

DP-307 Alternative Pay Plan Adjustment was acted on previously. The last DP to be covered was DP-308 which is to restore the base budget. **Mr. Hamel** stated there was \$67,170 lost each year of the biennium due to an accounting error which occurred while processing the fiscal year-end documents. **Ms. Beckert-Graham** stated the OBPP look at this thoroughly and determined it to be a true error. **Mr. Peterman** gave a few examples of what would be deferred if the funds were not restored.

{Tape : 3; Side : B; Approx. Time Counter : 330}

Motion/Vote: SEN. CRISMORE moved that **DP-308 RESTORE BASE BUDGET BE ADOPTED. Motion carried unanimously.**

CHAIRMAN HAINES adjourned the meeting.

ADJOURNMENT

Adjournment: 11:20 A.M.

REP. DICK HAINES, Chairman

SANDRA WHITAKER, Transcribing
Secretary

DH/SW

EXHIBIT (jnh18aad)